

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
SHERMAN

UNITED STATES OF AMERICA §  
§  
V. § NO. 4:11CR228-5  
§  
NICHOLAS ALVAREZ §

**MOTION FOR REDUCTION OF SENTENCE PURSUANT  
TO 18 U.S.C. § 3582(c)(2)**

TO THE HONORABLE JUDGE OF THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS:

COMES NOW Defendant NICHOLAS ALVAREZ, by and through defendant's undersigned attorney, and files this, the defendant's *Motion for Reduction of Sentence Pursuant to 18 U.S.C. § 3582(c)(2)*, and would show this Honorable Court as follows, to-wit:

I.

**RELIEF REQUESTED**

Defendant ALVAREZ's original guideline range was 120 months to 121 months, based on a total offense level of 29, and a criminal history category II. On JULY 9, 2014, Defendant ALVAREZ was sentenced to 72 months imprisonment. With the application of the 2014 retroactive guideline amendment, Defendant ALVAREZ's total offence level would be 27, and the guideline range would be 78 months to 97 months.

Defendant ALVAREZ moves under 18 U.S.C. § 3582(c)(2) for an order reducing the defendant's term of imprisonment from 72 months to 47 months, based on the retroactive amendment to the sentencing guidelines.

Defendant ALVAREZ's current proposed release date is SEPTEMBER 18, 2016.

II.

**JURISDICTION**

This Court has jurisdiction to modify the defendant's sentence now under the plain language of 18 U.S.C. §3582(c)(2) which provides:

In the case of a defendant who has been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing Commission pursuant to 28 U.S.C. § 994(o), upon motion of the defendant, the director of the Bureau of Prisons, or on its own motion, the court may reduce the term of imprisonment, after considering the factors set forth in section 3553(a) to the extent they are applicable, if such a reduction is consistent with applicable policy statements issued by the Sentencing Commission.

The predicate conditions conferring jurisdiction are met in this case. Defendant ALVAREZ was sentenced based on a sentencing range that was subsequently lowered by the Sentencing Commission on November 1, 2014. *See* U.S.S.G. App. C, Amend. 782. The Sentencing Commission promulgated a policy statement making the reduction retroactive. Amendment 782 becomes effective November 1, 2014. See U.S.S.G. § 1 B 1.10. Defendant ALVAREZ acknowledges that pursuant to the special instructions at section 1B1.10(e) the effective date of any order reducing the term of imprisonment will not be effective until November 1, 2015.

III.

### **CONFERENCE**

The undersigned counsel has conferred with the United States Attorney's Office, and they intend to file a written response.

IV.

### **CONCLUSION**

WHEREFORE, PREMISES CONSIDERED, the defendant respectfully requests that this Honorable Court grant the *Motion for Reduction of Sentence Pursuant to 18 U.S.C. § 3582(c)(2)* and reduce the Defendant's sentence to 47 months.

Respectfully submitted,

/s/ Wayne R. Dickey  
**WAYNE R. DICKEY**  
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Texas Bar Number: 05832020  
*Attorney for Defendant*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 20TH day of OCTOBER 2015, a true and correct copy of the foregoing Defendant's MOTION TO REDUCE SENTENCE PURSUANT TO 18 U.S.C. § 3582(c)(2) was sent via CM/ECF:

United States Attorney  
110 N. College, Suite 700  
Tyler, Texas 75702

/s/ Wayne R. Dickey

*Attorney for Defendant*